

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 20, 2005

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 220**

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**Introduced by Senator Chesbro**  
(Principal coauthor: Assembly Member Evans)

February 15, 2005

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An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Chesbro. Alcoholic beverage control: school property.

Existing law generally prohibits the sale, possession, or consumption of alcoholic beverages at a public schoolhouse. Existing law provides that this prohibition does not apply if certain conditions apply.

This bill would exempt from the prohibition wine produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

*This bill would incorporate additional changes in Section 25608 of the Business and Professions Code proposed by AB 767, to be operative only if AB 767 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last. These changes would become operative on the operative date of AB 767.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 25608 of the Business and Professions  
2     Code is amended to read:  
3     25608. (a) Every person who possesses, consumes, sells,  
4     gives, or delivers to any other person, any alcoholic beverage in  
5     or on any public schoolhouse or any of the grounds thereof, is  
6     guilty of a misdemeanor. This section does not, however, make it  
7     unlawful for any person to acquire, possess, or use any alcoholic  
8     beverage in or on any public schoolhouse, or on any grounds  
9     thereof, if any of the following applies:  
10    (1) The alcoholic beverage possessed, consumed, or sold,  
11    pursuant to a license obtained under this division, is wine that is  
12    produced by a bonded winery owned or operated as part of an  
13    instructional program in viticulture and enology.  
14    (2) The alcoholic beverage is acquired, possessed, or used in  
15    connection with a course of instruction given at the school and  
16    the person has been authorized to acquire, possess, or use it by  
17    the governing body or other administrative head of the school.  
18    (3) The public schoolhouse is surplus school property and the  
19    grounds thereof are leased to a lessee which is a general law city  
20    with a population of less than 50,000, or the public schoolhouse  
21    is surplus school property and the grounds thereof are located in  
22    an unincorporated area and are leased to a lessee which is a civic  
23    organization, and the property is to be used for community center  
24    purposes and no public school education is to be conducted  
25    thereon by either the lessor or the lessee and the property is not  
26    being used by persons under the age of 21 years for recreational  
27    purposes at any time during which alcoholic beverages are being  
28    sold or consumed on the premises.  
29    (4) The alcoholic beverages are acquired, possessed, or used  
30    during events at a college-owned or college-operated veterans  
31    stadium with a capacity of over 12,000 people, located in a  
32    county with a population of over six million people. As used in  
33    this subdivision, “events” mean football games sponsored by a  
34    college, other than a public community college, or other events  
35    sponsored by noncollege groups.

1 (5) The alcoholic beverages are acquired, possessed, or used  
2 during an event not sponsored by any college at a performing arts  
3 facility built on property owned by a community college district  
4 and leased to a nonprofit organization which is a public benefit  
5 corporation formed under Part 2 (commencing with Section  
6 5110) of Division 2 of Title 1 of the Corporations Code. As used  
7 in this subdivision, “performing arts facility” means an  
8 auditorium with more than 300 permanent seats.

9 (6) The alcoholic beverage is wine for sacramental or other  
10 religious purposes and is used only during authorized religious  
11 services held on or before January 1, 1995.

12 (7) The alcoholic beverages are acquired, possessed, or used  
13 during an event at a community center owned by a community  
14 services district and the event is not held at a time when students  
15 are attending a public school sponsored activity at the center.

16 (8) The alcoholic beverage is wine which is acquired,  
17 possessed, or used during an event sponsored by a community  
18 college district or an organization operated for the benefit of the  
19 community college district where the college district maintains  
20 both an instructional program in viticulture on no less than five  
21 acres of land owned by the district and an instructional program  
22 in enology, which includes sales and marketing.

23 (9) The alcoholic beverage is acquired, possessed, or used at a  
24 professional minor league baseball game conducted at the  
25 stadium of a community college located in a county with a  
26 population of less than 250,000 inhabitants, and the baseball  
27 game is conducted pursuant to a contract between the community  
28 college district and a professional sports organization.

29 (10) The alcoholic beverages are acquired, possessed, or used  
30 during events at a college-owned or college-operated stadium or  
31 other facility. As used in this subdivision, “events” means  
32 fundraisers held to benefit a nonprofit corporation that has  
33 obtained a license pursuant to this division for the event.  
34 “Events” does not include football games or other athletic  
35 contests sponsored by any college or public community college.  
36 This subdivision shall not apply to any public education facility  
37 in which any grade from kindergarten to grade 12, inclusive, is  
38 schooled.

39 (11) The alcoholic beverages are possessed, consumed, or  
40 sold, pursuant to a license obtained under this division, for an

1 event during the weekend or at other times when pupils are not  
2 on the grounds of an overnight retreat facility owned and  
3 operated by a county office of education in a county of the 18th  
4 class.

5 (b) Any person convicted of a violation of this section shall, in  
6 addition to the penalty imposed for the misdemeanor, be barred  
7 from having or receiving any privilege of the use of public school  
8 property which is accorded by Article 2 (commencing with  
9 Section 82537) of Chapter 8 of Part 49 of the Education Code.

10 *SEC. 1.5. Section 25608 of the Business and Professions*  
11 *Code is amended to read:*

12 25608. (a) Every person who possesses, consumes, sells,  
13 gives, or delivers to any other person, any alcoholic beverage in  
14 or on any public schoolhouse or any of the grounds thereof, is  
15 guilty of a misdemeanor. This section does not, however, make it  
16 unlawful for any person to acquire, possess, or use any alcoholic  
17 beverage in or on any public schoolhouse, or on any grounds  
18 thereof, if any of the following applies:

19 ~~(a) The alcoholic beverage is acquired, possessed, or used in~~  
20 ~~connection with a course of instruction given at the school and~~  
21 ~~the person has been authorized to acquire, possess, or use it by~~  
22 ~~the governing body or other administrative head of the school.~~

23 (1) *The alcoholic beverage possessed, consumed, or sold,*  
24 *pursuant to a license obtained under this division, is wine that is*  
25 *produced by a bonded winery owned or operated as part of an*  
26 *instructional program in viticulture and enology.*

27 (2) *The alcoholic beverage is acquired, possessed, or used in*  
28 *connection with a course of instruction given at the school and*  
29 *the person has been authorized to acquire, possess, or use it by*  
30 *the governing body or other administrative head of the school.*

31 ~~(b)~~

32 (3) The public schoolhouse is surplus school property and the  
33 grounds thereof are leased to a lessee which is a general law city  
34 with a population of less than 50,000, or the public schoolhouse  
35 is surplus school property and the grounds thereof are located in  
36 an unincorporated area and are leased to a lessee which is a civic  
37 organization, and the property is to be used for community center  
38 purposes and no public school education is to be conducted  
39 thereon by either the lessor or the lessee and the property is not  
40 being used by persons under the age of 21 years for recreational

1 purposes at any time during which alcoholic beverages are being  
2 sold or consumed on the premises.

3 ~~(e)~~

4 (4) The alcoholic beverages are acquired, possessed, or used  
5 during events at a college-owned or college-operated veterans  
6 stadium with a capacity of over 12,000 people, located in a  
7 county with a population of over six million people. As used in  
8 this subdivision, “events” mean football games sponsored by a  
9 college, other than a public community college, or other events  
10 sponsored by noncollege groups.

11 ~~(f)~~

12 (5) The alcoholic beverages are acquired, possessed, or used  
13 during an event not sponsored by any college at a performing arts  
14 facility built on property owned by a community college district  
15 and leased to a nonprofit organization which is a public benefit  
16 corporation formed under Part 2 (commencing with Section  
17 5110) of Division 2 of Title 1 of the Corporations Code. As used  
18 in this subdivision, “performing arts facility” means an  
19 auditorium with more than 300 permanent seats.

20 ~~(e)~~

21 (6) The alcoholic beverage is wine for sacramental or other  
22 religious purposes and is used only during authorized religious  
23 services held on or before January 1, 1995.

24 ~~(f)~~

25 (7) The alcoholic beverages are acquired, possessed, or used  
26 during an event at a community center owned by a community  
27 services district and the event is not held at a time when students  
28 are attending a public school sponsored activity at the center.

29 ~~(g)~~

30 (8) The alcoholic beverage is wine which is acquired,  
31 possessed, or used during an event sponsored by a community  
32 college district or an organization operated for the benefit of the  
33 community college district where the college district maintains  
34 both an instructional program in viticulture on no less than five  
35 acres of land owned by the district and an instructional program  
36 in enology, which includes sales and marketing.

37 ~~(h)~~

38 (9) The alcoholic beverage is acquired, possessed, or used at a  
39 professional minor league baseball game conducted at the  
40 stadium of a community college located in a county with a

1 population of less than 250,000 inhabitants, and the baseball  
2 game is conducted pursuant to a contract between the community  
3 college district and a professional sports organization.

4 (i)

5 (10) The alcoholic beverages are acquired, possessed, or used  
6 during events at a college-owned or college-operated stadium or  
7 other facility. As used in this subdivision, “events” means  
8 fundraisers held to benefit a nonprofit corporation that has  
9 obtained a license pursuant to this division for the event.  
10 “Events” does not include football games or other athletic  
11 contests sponsored by any college or public community college.  
12 This subdivision shall not apply to any public education facility  
13 in which any grade from kindergarten to grade 12, inclusive, is  
14 schooled.

15 (j)

16 (11) The alcoholic beverages are possessed, consumed, or  
17 sold, pursuant to a license obtained under this division, for an  
18 event during the weekend or at other times when pupils are not  
19 on the grounds of an overnight retreat facility owned and  
20 operated by a county office of education in a county of the 18th  
21 class.

22 (12) *The grounds of the public schoolhouse on which the*  
23 *alcoholic beverage is acquired, possessed, used, or consumed is*  
24 *property that has been developed and is used for residential*  
25 *facilities or housing that is offered for rent, lease, or sale*  
26 *exclusively to faculty or staff of a public school or community*  
27 *college.*

28 ~~Any~~

29 (b) Any person convicted of a violation of this section shall, in  
30 addition to the penalty imposed for the misdemeanor, be barred  
31 from having or receiving any privilege of the use of public school  
32 property which is accorded by Article 2 (commencing with  
33 Section 82537) of Chapter 8 of Part 49 of the Education Code.

34 *SEC. 1.7. Section 1.5 of this bill incorporates amendments to*  
35 *Section 25608 of the Business and Professions Code proposed by*  
36 *this bill and AB 767. It shall only become operative if (1) both*  
37 *bills are enacted and become effective on or before January 1,*  
38 *2006, but this bill becomes operative first, (2) each bill amends*  
39 *Section 25608 of the Business and Professions Code, and (3) this*  
40 *bill is enacted after AB 767, in which case Section 25608 of the*

1 *Business and Professions Code, as amended by Section 1 of this*  
2 *bill, shall remain operative only until the operative date of AB*  
3 *767, at which time Section 1.5 of this bill shall become operative.*

4 SEC. 2. This act is an urgency statute necessary for the  
5 immediate preservation of the public peace, health, or safety  
6 within the meaning of Article IV of the Constitution and shall go  
7 into immediate effect. The facts constituting the necessity are:

8 In order to ensure that equal treatment is accorded to similarly  
9 situated entities at the earliest possible time it is necessary that  
10 this act take effect immediately.